



**COUNTY ATTORNEY'S OFFICE
MEMORANDUM**

TO: Board of County Commissioners

FROM: Robert A. McMillan, County Attorney

CONCUR: Pam Hastings, Administrative Manager/Public Works Department
David V. Nichols, P.E., Principal Engineer/Engineering Division *Diff 2/14/06*

DATE: February 21, 2006

SUBJECT: Fifth Amended Resolution of Necessity
Lake Emma Road improvement project
Parcel Nos. 134/834; Moreno Valley Investors Four, LLC

Due to the deletion of the legal description for Parcel No. 134B and the revision of the legal descriptions for Parcel Nos. 134/834 needed for the Lake Emma Road improvement project, this Fifth Amended Resolution of Necessity is submitted for approval by the Board of County Commissioners.

RAM/krc

Attachment:
Fifth Amended Resolution of Necessity

RESOLUTION NO. 2006-R-_____

SEMINOLE COUNTY, FLORIDA

**FIFTH AMENDED RESOLUTION
(LAKE EMMA ROAD)**

**THE FOLLOWING RESOLUTION WAS ADOPTED BY THE
BOARD OF COUNTY COMMISSIONERS OF SEMINOLE
COUNTY, FLORIDA, AT ITS REGULARLY SCHEDULED
MEETING OF _____, 2006.**

WHEREAS, the safe, efficient and uninterrupted transportation of people and property from place to place on the County Road System of Seminole County is a matter of great concern to the people of the County and is necessary to ensure the smooth operation of commerce and other activities within Seminole County; and

WHEREAS, the constitutional home rule powers of Seminole County, the *Florida Transportation Code* (Chapters 334-339 and other provisions of the Florida Statutes as established in *Section 334.01, Florida Statutes*) and other applicable law including, but not limited to, *Chapter 125, Florida Statutes*, invests authority over the County road system of Seminole County in the County; and

WHEREAS, the elimination of safety hazards in existing and future transportation facilities within Seminole County is of utmost concern and encourages the full utilization of such facilities by the traveling public; and

WHEREAS, it is necessary, beneficial and desirable that vehicular traffic within any transportation facility in developed or developing areas of the County has an adequate right-of-way in order to accommodate the roadway and its appurtenant facilities to

decrease the likelihood of accidents and to increase the safety of travel within and upon such facilities; and

WHEREAS, Lake Emma Road (from Longwood Hills Road to Sand Pond Road) is an existing roadway through a developing area with a high volume of traffic; and

WHEREAS, this Fifth Amended Resolution of Necessity is necessary to amend Resolution of Necessity Number 02-R-56, that was approved and adopted by the Board of County Commissioners of Seminole County on April 9, 2002, respectively, and pertains to certain parcels to be acquired for Lake Emma Road improvements; and

WHEREAS, the existing right-of-way along the proposed roadway is inadequate for proper utilization as required by vehicular traffic volumes. Additional traffic lanes and improved drainage facilities are necessary to reduce safety hazards and improve traffic flow. The property hereinafter described is being acquired for use as right-of-way for new sections of roadway, additional traffic lanes and improved drainage facility on Lake Emma Road to be used by the public in general. Said property hereinafter described is necessary for roadways, rights-of-way, drainage facilities, and related facilities for the use of the general public including, but not limited to, rights-of-way, drainage facilities and other roadway improvements; and

WHEREAS, Seminole County has heretofore caused the roadway's area of construction to be located and surveyed and has caused a right-of-way map for the section of Lake Emma Road hereinabove described to be prepared, based upon and incorporating the survey and location data; and

WHEREAS, the modified or revised legal descriptions of the parcels needed for the improvements to the roadway and the improvement of its drainage system have been prepared based upon the aforementioned survey and location data and the right-of-way map; and

WHEREAS, the Board of County Commissioners of Seminole County desires to adopt a Fifth Amended Resolution for the section of Lake Emma Road hereinabove described and to add, modify or revise the parcels needed for improvements to the roadway and improvements of its drainage system on this section of Lake Emma Road; and

WHEREAS, the Board of County Commissioners of Seminole County desires to utilize the provisions of Florida law to the fullest extent possible in order to accomplish the public purpose of acquiring necessary parcels of real property at prices that are both fair to property owners and prudent in terms of spending the tax revenues and other public funds which fund the transportation projects of the County; and

WHEREAS, the Board of County Commissioners of Seminole County hereby determines that the actions taken herein are consistent with the goals, policies and objectives of the Seminole County Comprehensive Plan;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA;

Section 1. The above recitals are adopted as findings and incorporated into the text of this Resolution

Section 2. It is necessary, serves a County and public purpose, and is in the best interests of the citizens of Seminole County and the traveling public to widen the road and improve the appurtenant drainage facilities on or relating to Lake Emma Road (from

Longwood Hills Road and Sand Pond Road) in order to enhance public transportation within Seminole County, to alleviate traffic congestion and to increase the safety of travel along said road.

Section 3. The acquisition of the property described in Exhibit "A" attached hereto consisting of four (4) pages and identified as Exhibit "A", 000001 - 000004, are hereby ratified and confirmed and found to be necessary for said improvements to the extent of the estate or interest set forth as a part of the parcels description. The Board of County Commissioners of Seminole County hereby finds and determines that the acquisition of said parcels are necessary and serves a County and public purpose.

Section 4. The interests sought to be condemned designated as Parcel No. 134 described in Exhibit "A", is identified as fee simple. Absolute complete ownership of all rights over property into perpetuity, without limitation or restriction. Unqualified ownership and power of disposition.

Section 5. The interests sought to be condemned designated as Parcel No. 834, described in Exhibit "A", is identified as permanent perpetual easement for the purpose of constructing and maintaining a drainage structure and related appurtenances. The County's non-exclusive use shall include the right to construct, operate, secure, maintain, repair, and replace fill slopes, underground pipes, surface drainage facilities including retention ponds, and public utility facilities and structures, together with appurtenances that are reasonably necessary to construct, operate, secure, maintain, repair and replace the fill slopes, underground pipes, surface drainage facilities and public utility facilities and structures. The County acquires the right to enter upon, over, under and across the Parcel with all such fills, cuts, drains, ditches, and other facilities,

which may be deemed necessary for making the drainage improvements. The owner's privileges in the use of the Parcel include all uses and purposes not specifically acquired by the County or inconsistent with County uses.

The owner's privileges and uses include access to the remaining property, the right to construct underground and surface facilities that are not in conflict with County installed underground and surface facilities, and maintenance and repair rights of owner installed underground and surface facilities. The owner retains all rights to use the Parcel to satisfy applicable land development code regulations including, but not limited to: greenspace and landscape buffer requirements and buildable acreage calculations.

Section 6. The County Engineer or his designee is hereby delegated the authority to amend the construction plans for Lake Emma Road and is authorized to bind the County to construct Lake Emma Road in accordance with the construction plans as amended from time to time. This authority shall encompass any change considered necessary in the discretion of the County Engineer or his designee, but shall not include changes in the typical section or alignment approved by the Board of County Commissioners of Seminole County.

Section 7. The County Attorney's Office is hereby authorized and directed to institute a suit or suits in the name of Seminole County and fully exercise Seminole County's power of eminent domain for the purpose of acquiring the parcels described in Exhibit "A" attached hereto to the extent of the estate or interest set forth as a part of the parcels description and is further authorized and directed to do all things necessary to prosecute such suit or suits to final judgment by settlement or adjudication. In pursuit of such authorization and direction, the County Attorney's Office is specifically authorized to

sign and file a Declaration of Taking so that Seminole County may avail itself of the provisions of *Chapter 74, Florida Statutes*, and is further authorized to accomplish the acquisition of each parcel by settlement and compromise at such terms that it may deem advisable under the circumstances of the litigation in those instances where same can be effected in accordance with any terms, conditions and limitations as established from time to time by the Board of County Commissioners of Seminole County. The County Attorney's Office is authorized and directed to utilize and assert any and all constitutional and statutory authority of Seminole County and the Board of County Commissioners of Seminole County relative to the acquisition of the subject parcels including, but not limited to, the provisions of *Chapters 73, 74, 127, 332, Florida Statutes*, as well as the provisions of the *Florida Transportation Code* referred to in the recitals to this Fifth Amended Resolution.

Section 8. Prior to the institution of any suits filed by the County Attorney's Office, the County Attorney or his designee is authorized to negotiate for the purchase and sale of any of the property described in Exhibit "A" at a value consistent with the authority granted by the Board of County Commissioners of Seminole County and to bring back for execution by the Chairman or, in his absence, the Vice Chairman, without further Board action, the Agreement to consummate the sale to Seminole County.

Section 9. This Resolution amends Resolution of Necessity Number 2002-R-56 by deleting the legal descriptions for Parcel Nos. 134A/B and 834 and substituting therefore the legal descriptions for Parcel Nos. 134/834, the legal descriptions for Parcel Nos. 134/834 are being attached hereto as Exhibit "A". To that extent Resolution of

Necessity Number 2002-R-56 is superseded; the remaining provisions of Resolution of Necessity Number 2002-R-56 are hereby ratified and affirmed.

ADOPTED this _____ day of _____, 2006.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA**

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida.

By: _____
CARLTON D. HENLEY, Chairman
Date: _____

County Attorney

RAM/krc
02/07/06

Attachments:

Exhibit A – legal descriptions 000001 - 000004

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Sheet 1 of 2

R/W Project: Lake Emma Road
R/W Parcel: 134
Title Search #: 135
Tax I.D. #: 18-20-30-300-007A-0000
Owners Name: Moreno Valley Inv Four LLC
Fee Simple

That portion of the Southwest 1/4 of Section 18, Township 20 South, Range 30 East, as recorded in Official Records Book 2496, Page 790, Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Southwest 1/4 of said Section 18; thence N89°44'43"E, along the South line of said Southwest 1/4 of Section 18, a distance of 1184.04 feet to the Westerly right-of-way line of Lake Emma Road; thence N00°07'22"W, along said Westerly right-of-way line, 221.70 feet to the Northerly right-of-way line of Sand Pond Road and for a POINT OF BEGINNING; thence S89°44'43"W, along said Northerly right-of-way line, 30.50 feet; thence departing said Northerly right-of-way line, N45°44'54"E, 20.42 feet; thence N00°13'51"W, 180.80 feet; thence N06°53'47"E, 40.30 feet; thence N00°13'51"W, 290.00 feet; thence N89°51'49"E, 11.81 feet to the aforementioned Westerly right-of-way line of Lake Emma Road; thence S00°07'22"E, along said Westerly right-of-way line, 524.95 feet to the POINT OF BEGINNING.

Containing 7,117 square feet more or less.

Subject to: Utility Easement as recorded in Official Records Book 3006, Page 1410.

For Sketch of Description see Sheets 24 and 32 of 35 of Right-of-Way map.

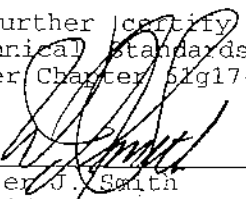
EXHIBIT A
000001

Sheet 2 of 2

R/W Project: Lake Emma Road
R/W Parcel: 134
Title Search #: 135
Tax I.D. #: 18-20-30-300-007A-0000
Owners Name: Moreno Valley Inv Four LLC
Fee Simple

I hereby certify that, to the best of my knowledge and belief, the attached legal description of Parcel 134 as shown on the Right-of-Way Maps for Lake Emma Road are true, accurate, and were prepared under my direction.

I further certify that this legal description is in accordance with the Technical Standards adopted by the Florida Board of Surveyors and Mappers under Chapter 61G17-6, F.A.C.



Walter J. Smith
Florida Professional Land Surveyor No. 4807
520 South Magnolia Avenue, Orlando, Florida 32801

Date: 2/7/06

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

LEGAL DESCRIPTION IS NOT A SURVEY

EXHIBIT A
000002

Sheet 1 of 2

R/W Project: Lake Emma Road
R/W Parcel: 834
Title Search #: 135
Tax I.D. #: 18-20-30-30C-007A-0000
Owners Name: Moreno Valley Inv Four LLC
Drainage Easement

That portion of the Southeast 1/4 of Section 18, Township 20 South, Range 30 East, as recorded in Official Records Book 2496, Page 790, Seminole County, Florida, being more particularly described as follows:

Commence at the Southwest corner of the Southwest 1/4 of said Section 18; thence N89°44'43"E, along the South line of said Southwest 1/4 of Section 18, a distance of 1184.04 feet to the Westerly right-of-way line of Lake Emma Road; thence N00°07'22"W, along said Westerly right-of-way line, 221.70 feet to the Northerly right-of-way line of Sand Pond Road; thence S89°44'43"W, along said Northerly right-of-way line 30.50 feet for a POINT OF BEGINNING; thence continue S89°44'43"W, along said Northerly right-of-way line, 584.92 feet; thence departing said Northerly right-of-way line, N00°13'51"W, 163.19 feet; thence N89°43'32"E, 78.60 feet; thence N80°09'01"E, 63.74 feet; thence N62°19'30"E, 51.88 feet; thence N53°26'19"E, 103.67 feet; thence N67°56'22"E, 67.77 feet; thence N73°29'16"E, 67.24 feet; thence N56°34'52"E, 51.61 feet; thence N40°01'43"E, 23.27 feet; thence S69°32'09"E, 56.06 feet; thence N48°16'46"E, 55.90 feet; thence N00°13'51"W, 48.97 feet; thence N89°46'09"E, 53.61 feet; thence S00°13'51"E, 180.25 feet; thence S06°53'47"W, 40.30 feet; thence S00°13'51"E, 180.80 feet; thence S45°44'54"W, 20.42 feet to the POINT OF BEGINNING.

Containing 3.658 acres more or less.

Subject to: N/A

For Sketch of Description see Sheets 24 and 32 of 35 of Right-of-Way map.

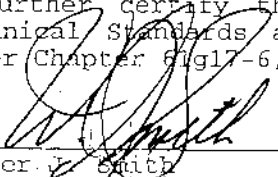
EXHIBIT A
000003

Sheet 2 of 2

R/W Project: Lake Emma Road
R/W Parcel: 834
Title Search #: 135
Tax I.D. #: 18-20-30-300-007A-0000
Owners Name: Moreno Valley Inv Four LLC
Drainage Easement

I hereby certify that, to the best of my knowledge and belief, the attached legal description of Parcel 834 shown on the Right-of-Way Maps for Lake Emma Road are true, accurate, and were prepared under my direction.

I further certify that this legal description is in accordance with the Technical Standards adopted by the Florida Board of Surveyors and Mappers under Chapter 61G17-6, F.A.C.



Walter J. Smith
Florida Professional Land Surveyor No. 4807
520 South Magnolia Avenue, Orlando, Florida 32801

Date: 2/7/06

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

LEGAL DESCRIPTION IS NOT A SURVEY

EXHIBIT A
000004